

**Before the State of South Carolina
Department of Insurance**

In the matter of:)
)
National Foundation Life Insurance Co.,)
)
110 West Seventh Street, Suite 300)
Fort Worth, Texas 76102.)
_____)

SCDI File Number 2000-105670

**Consent Order
Imposing Administrative Penalty**

This matter comes before me pursuant to an agreement entered into between the State of South Carolina Department of Insurance and National Foundation Life Insurance Company, an insurer licensed to transact insurance business within the State of South Carolina.

I hereby find as fact that National Foundation Life failed to timely file its September 2000 Quarterly (annual adjusted) Tax Return Installment and that this is the third instance in which the insurer has not timely made this filing. National Foundation Life has alleged that these actions were completely unintentional. However, they are a direct violation of S.C. Code Ann. §38-7-60 (3) (Supp. 2000) and can ultimately lead to the revocation of the insurer's certificate of authority pursuant to S.C. Code Ann. §§ 38-7-60 (4) and 38-5-120 (A) (2) (Supp. 2000) to transact the business of insurance within the State of South Carolina, following a public hearing before the Administrative Law Judge Division.

Prior to the initiation of formal administrative disciplinary proceedings by the Department against it, National Foundation Life and the Department agreed to submit the entire matter to me, along with their specific recommendation, for my summary decision. That consensual recommendation was that, in lieu of the Department's filing of a petition to revoke its certificate of authority to transact business as an insurer within the State of South Carolina, National Foundation Life would waive its right to a public hearing and would immediately submit an administrative penalty in the total amount of \$2,000.

S.C. Code Ann. § 38-7-60(3) (Supp. 2000) in pertinent part states "[t]he premium and other taxes imposed on insurers pursuant to §§ 38-7-20, 38-7-30, 38-7-40, 38-7-50, and 38-7-90 must be paid to the Director or his designee in quarterly installments on or before March 1st, June 1st, September 1st, and December 1st of each calendar year."

After a thorough review of the matter, carefully considering the recommendation of the parties, and pursuant to my findings of fact, I hereby conclude as a matter of law that National Foundation Life did violate S.C. Code Ann. § 38-7-60(3) (Supp. 2000). Although I can now revoke the insurer's certificate of authority, I hereby impose an administrative penalty in the amount of \$2,000 against National Foundation Life pursuant to the discretion provided to me by

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GENERAL COUNSEL

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STATE OF SOUTH CAROLINA
DEPARTMENT OF INSURANCE

____ National Foundation
Life Insurance Company

the State of South Carolina General Assembly in S.C. Code Ann. §§ 38-5-130 and 38-2-10 (Supp. 2000). This administrative penalty must be paid within ten days of my date and my signature upon this consent order. If that total amount is not paid on, or before, that date, then National Foundation Life's certificate of authority to transact business as an insurer within the State of South Carolina will be summarily revoked without any further administrative disciplinary proceedings.

The parties have reached this administrative penalty in consideration of the internal corrective internal measures National Foundation Life has taken to prevent this problem from recurring and of its assurance that it will timely file each of its future tax returns with the Department. This penalty includes all expenses related to investigation of this matter as provided in Section 38-13-70 of the South Carolina Code. The parties expressly agree and understand Davis's payment of the agreed-upon penalty constitutes full accord and satisfaction of this matter. By the signature of one of its officers or authorized representatives upon this consent order, National Foundation Life acknowledges that it understands that this administrative disciplinary order is a public record subject to the disclosure requirements of the State of South Carolina's *Freedom of Information Act*, S.C. Code Ann. §§ 30-4-10, *et seq.* (1991 and Supp. 2000).

Nothing contained within this administrative disciplinary order should be construed to limit, or to deprive any person of, any private right of action under the law. Nothing contained within this administrative disciplinary order should be construed to limit, in any manner, the criminal jurisdiction of any law enforcement or judicial officer. Nothing contained within this administrative disciplinary order should be construed to limit the statutory duty, pursuant to S.C. Code Ann. § 38-3-110 (Supp. 2000), of the Director of Insurance, exercised either directly or through the Department, to "report to the Attorney General or other appropriate law enforcement officials criminal violations of the laws relative to the business of insurance or the provisions of this title which he considers necessary to report."

It is, therefore, ordered that National Foundation Life Insurance Company shall, within ten days of my date and my signature upon this consent order, pay through the Department an administrative penalty in the total amount of \$2,000.

It is further ordered that a copy of this consent order shall be immediately transmitted to the National Association of Insurance Commissioners for distribution to its member states.

This consent order becomes effective on the date of my signature below.



Ernst N. Csiszar
Director

January 31, 2001
Columbia, South Carolina

National Foundation
Life Insurance Company

I CONSENT:

Terry Proctor
Signature of Authorized Representative

Terry Proctor
Name

Tax Analyst
Title

National Foundation Life Insurance Company
110 West Seventh Street, Suite 300
Fort Worth, Texas 76102

Dated this 31 day of January, 2001